

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RESOLUTION (75) 3

ON THE LEGAL AND ADMINISTRATIVE ASPECTS OF CRIMINALITY AMONG MIGRANT WORKERS

*(Adopted by the Committee of Ministers on 21 January 1975
at the 241st meeting of the Ministers' Deputies)*

The Committee of Ministers,

Noting that in Europe a large, and probably increasing, number of persons move from their own country to find work in another;

Considering that it is in the interest of European unification to secure, so far as the labour market allows, collaboration in the acceptance of foreign workers and their full and effective adaptation into national societies;

Defining the term "migrant worker", for the purpose of this resolution, as an alien who has taken up paid employment on the territory of a member state, as well as the members of his family;

Considering the differences of social and legal organisation between member states and hence the difficulties which can occur in the adaptation of migrant workers to the circumstances of the receiving country, which can contribute to their criminality;

Considering the desirability of all appropriate measures to help migrant workers adapt to the living conditions of the receiving country;

Having regard to the fact that the European conventions in the field of criminal law offer wide and varied possibilities for dealing in the spirit of the foregoing paragraphs with migrant workers questioned, charged, prosecuted or under sentence for offences;

Having regard to the principles governing the Statute of the Council of Europe in the field of human rights and fundamental freedoms,

1. Recommends the governments of member states to ensure that in the framework of the penal system any migrant worker prosecuted or under sentence is not in an inferior position as compared with another individual prosecuted or under sentence. To this end, his particular position as a migrant worker should be taken into account. Hence it would be advisable to :

a. avoid remand in custody of a migrant worker accused of an offence solely on the presumption of the likelihood of his failing to stand trial and without careful consideration of his special position as a migrant worker;

b. provide the free assistance of an interpreter where proceedings are taken against a migrant worker in respect of an offence and he does not understand the language of the proceedings;

c. provide that, in the application of sanctions, the same opportunities which are offered to nationals are given to migrant workers, especially in the granting of suspended sentence, parole, and similar measures;

d. ensure, wherever possible, that the same criteria are applied to nationals and migrant workers for the purpose of their placement in the various types of prison;

e. combat feelings of isolation in imprisoned migrant workers, e.g. by placing them in establishments where the staff speaks their own language and where there are already some of their compatriots, by providing or permitting books and newspapers in their own language or by any other appropriate means;

f. avoid as far as practicable undue delay in the correspondence of imprisoned migrant workers by applying, where censorship exists, rapid procedures for censoring letters in foreign languages;

g. pay due attention, as far as possible, to the religious customs or philosophical beliefs of migrant workers, in particular where they call for special diets;

h. affirm the right of any migrant worker who is arrested to enjoy the help and assistance of his consular authorities from the moment of such arrest, in accordance with the principles of general international law and with the conventions in force in each state concerned;

2. Recommends the governments of member states to develop, in connection with migrant workers charged with minor infringements of the rules relating to the right to stay and to work, a flexible policy, avoiding their stigmatisation as criminals;

3. Recommends the governments of member states :

- to promote research relating to criminality among migrant workers along the lines indicated in the report appended hereto in order to obtain the necessary data for the establishment of an effective criminal policy in this field; this research should either form part of more general research into the social relationships and conditions of the migrant workers, not being confined to their criminality, or refer at the same time to criminality in the host community or sections of it;

- to facilitate the task of research workers carrying out research on criminality among migrant workers, at the national or international level, by supplying them with the necessary information, within the limits and the conditions provided by their legislation;

4. Recommends the governments of member states to take into consideration when revising their criminal statistics, the criteria formulated in the annexed report for uniform collection of data relating to the criminality among migrant workers;

5. Invites the governments of member states to send every three years to the Secretary General of the Council of Europe a report on the follow-up to the present recommendations.